

NEW YORK STATE DEPARTMENT OF ENVIRONMENTAL CONSERVATION

Division of Environmental Permits, Region 1

SUNY @ Stony Brook, 50 Circle Road, Stony Brook, NY 11790

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www.dec.ny.gov

NOTICE OF INCOMPLETE APPLICATION

July 20, 2020

Frank A. Isler
456 Griffing Ave.
Riverhead, NY 11901

Re: DEC #: 1-4730-00013/00056
EPCAL 8-Lot Subdivision
4062 Grumman Rd.
Calverton, NY 11933
SCTM# 600-135-01-7.1, 7.2, 7.33, 7.4

Dear Mr. Isler:

Thank you very much for your recent resubmission of updates to the Town of Riverhead's SEQR Consistency Analysis and Comprehensive Habitat Protection Plan. We appreciate the efforts that have been made to provide the Department with the necessary additional information required for our review of your application for a Part 666 (Wild, Scenic & Recreational Rivers System) approval for the subdivision of 2,107 acres into 8 Lots for future development.

As this Department is committed to working with the Town on the development of an application that provides the information necessary for DEC to make both the Findings required pursuant to the State Environmental Quality Review Regulations (Part 617) and the determinations required by the applicable permit regulations (Part 666), we want to be clear and transparent with the Town. To that end, please understand that the information submitted to date will require a considerable amount of revision and additional information in order to provide the basis for DEC's Findings and permitting decision. Some examples of the necessary additional information and discussion of next steps are provided below.

1. Maps

There are a number of inconsistencies, errors, and omissions in the map exhibits provided. For example, Exhibit H has omitted all the grasslands and woodlands in the middle of the property. Several exhibits label areas as grasslands which are not grasslands. The maps that are reflecting existing conditions should not show "grasslands to be created," etc. We have made a preliminary review of the maps, and we suggest proceeding as follows:

A, Please provide an index / table of contents of all Map Exhibits. The index should provide a description of what each Exhibit represents.



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B. Exhibit Q appears to contain the most accurate depiction of the ecological resources of concern at this site. We would like to start with this map by asking you to make the following necessary corrections / additions. Once these changes have been made, please provide this map for our review. Once the Department has confirmed that all resources are correctly depicted on this map, the other maps can be revised accordingly. Please make the following changes to Exhibit Q:

1. Lot #5 is labeled as "grassland." It should be labeled as "Early Successional Habitat."
2. In Lot #2, the ballfields are labeled as "grasslands." This error must be corrected.
3. Exhibit N provides a chart of the acreage of different habitat types. Exhibit Q must be revised to include the acreage for each type of ecological community represented.

2. Total Build Out Proposal

The update to the SEQR Consistency Analysis notes, (p.16) "Therefore the environmental analysis of this Updated Consistency Analysis is limited by the specific information available from CAT's proposed sketch and its attendant references and exhibits." SEQR requires the examination of the potential impacts of total build out when later phases of a project are uncertain. If the Town chooses to examine the CAT proposal as the total build out option for the purposes of the SEQR review, the Town will need to provide the information necessary for this analysis whether or not that information was provided in CAT's proposed sketches. For example, once Exhibit Q is revised to include all necessary changes, the maps of the "total build out proposal" being evaluated for the purposes of the SEQR review will need to be updated to show the ecological communities consistently with Exhibit Q. While the total build-out proposal can be based on sketch plans, it may be necessary to add some additional relevant details such as where and how the new rail depot would connect to the existing railroad, etc.. We will provide more details on necessary revisions such as these once we have reviewed the updated Exhibit Q and the index of Exhibits.

3. Update to Comprehensive Habitat Protection Plan

The updates to the CHPP will need to be incorporated into a new revision of the complete document prepared by VHB Engineering on July 2014, revised February 2016. The original document makes reference to specific actions to be taken as part of the original 50-lot subdivision that are not applicable to the new proposal. The actions are part of the original proposal and must be revised appropriately with respect to the new 8-lot subdivision. For example, page 21 of the original CHPP references the 50-lot subdivision and removal of habitat primarily to the north of the runways. It specifies acreage to be protected based on the 50-lot subdivision, not the 8-lot subdivision. The entire CHPP must be revised to describe the current proposal and the steps that will be taken to mitigate potential impacts to the habitats of identified Endangered or Threatened species as a result of the project. Once the complete document has been revised, DEC will review it and provide comments. A few items which have been identified to date include,

- A. The CHPP update (p. 10) states that "Infrastructure design **shall comply with the NYSDEC guidance document for protection of eastern tiger salamander, especially engineered stormwater control and management systems** along with parking field and roadway designs and their attendant drainage systems." Please

provide a copy of the referenced NYSDEC guidance document, and please identify the specific section or pages which pertain to stormwater matters.

- B. The CHPP was updated to include a discussion of potential impacts and mitigation of impacts associated with de-icing operations. This discussion must be expanded to include an evaluation of other potential impacts customarily associated with aviation including operations such as fire suppression and containment of fuel spills.
- C. Can you please tell us what the "Cultural Resources Covenant Areas as Described in 1.2499 cp.148" refers to on CHPP Exhibit A?
- D. The CHPP's description of the management of grasslands should indicate that the management measures will be developed and conducted in accordance with the Department's guidance for managing grassland birds which can be found on our website at: <http://www.dec.ny.gov/pubs/86582.html>.
- E. Northern Long-Eared Bats

Both the SEQR and CHPP updates recite NYSDEC's general guidelines and requirements for tree cutting work as it relates to windows developed to protect the Northern Long Eared Bat (NLEB). Both documents mention that "correspondence from NYNHP indicates that no agency records currently exist for NLEB hibernacula or roost trees at or in the vicinity of the EPCAL site." This information is outdated and is no longer accurate. Portions of the EPCAL site are currently mapped as being located within 1.5 miles of a summer occurrence of the NLEB. With respect to the portions that are not currently mapped as being located within 1.5 miles of a summer occurrence, the comments provided in the Department's 4/13/2016 letter to the Town remain applicable,

"The inclusion of correspondence from the NY Natural Heritage Program (NYNHP) indicating that no agency records currently exist for northern long-eared bat (NLEB) hibernacula or roost trees at or in the vicinity of the EPCAL site is inadequate to determine the impacts the project might have on the northern-long eared bat."

The updated SEQR analysis states, "However, when forest habitat is lost from the landscape because the land is converted to another use, these areas no longer provide any benefit to the NLEB." The SEQR update must examine the potential impacts of the full build out proposal on the NLEB, including the permanent removal of forested habitat. In addition, this Department strongly suggests that in the absence of the Town or new owner conducting surveys to document otherwise, the SEQR and CHPP updates be based on the presumption that the entire EPCAL site is located within 1.5 miles of a summer occurrence of the NLEB, and that these documents therefore be revised to provide that all tree cutting must be restricted to December 1 through February 28th of any calendar year. Applicable covenants should also be revised to reflect this restriction.

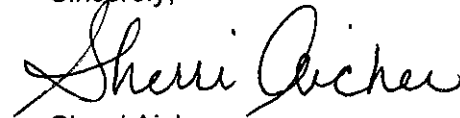
4. **Initial Comments on SEQR Consistency Analysis:** Our review of your resubmission is currently ongoing, and we will provide further comments as soon as possible. Comments we can provide at this time are:

- A. The SEQR Consistency Analysis (p.30) refers to water quality monitoring (with respect to de-icing operations) as part of a tiger salamander mitigation plan & says, "Albeit generic in nature, these mitigating measures **would require the NYSDEC establish threshold for surface water quality necessary to avoid disruption of eastern tiger salamander populations.**" The NYSDEC does not anticipate establishing such thresholds. This error in the SEQR update must be corrected.
- B. The DSGEIS evaluated impacts to air emissions from the proposed 50-lot subdivision in Section 3.5.2. The SEQR consistency analysis must update this discussion with an evaluation of the potential impacts of air emissions associated with the full build out proposal, including air emissions generated by traffic and aviation uses.
- C. The Town may want to consider designing the program/procedures for the proposed deicing operations such that they meet the SPDES MSGP requirements (GP-0-17-004): <https://www.dec.ny.gov/chemical/9009.html>. This permit authorizes stormwater discharges to **surface waters**. From the description given, this activity would fall under Sector S (air transportation) in Part III of the permit. Some specific additions to the proposed program/procedures are included below, but the Town should review the full permit and make any additional applicable changes.
 - 1. The Town should consider adding Ammonia as Nitrogen, Total Nitrogen, BOD, and COD to the proposed Water Quality Monitoring Program, (see numerical effluent limits and benchmark sampling requirements under Sector S).
 - 2. Refer to Sector S in Part III of GP-0-17-007 for additional specific measures to be required/included in the procedures to prevent/lessen the environmental impact.If the site is ultimately used for aviation, the Town (and/or owner/operator of the facility) should confirm applicability with the permit. If permit coverage is required, a SWPPP must be prepared in accordance with the GP-0-17-004 and coverage under this SPDES permit must be obtained. The discussion in the SEQR Consistency Analysis concerning de-icing procedures should include the possibility of coverage under the SPDES MSGP (GP-0-17-004). Note that dry weather discharges of deicing/anti-icing chemicals are not authorized under this general permit.
- D. The Water Supply history provided in your SEQRA Consistency Analysis (p. 32 – 37) must be revised to clearly indicate that Riverhead Water District (RWD) is not currently permitted by the Department to serve public water to this area. In July 2005 Riverhead Water District was issued an NOV for adding numerous extensions, including the EPCAL property, and operating wells without a permit. In 2009 RWD applied for a water withdrawal permit to serve the EPCAL property; however, to date that permit has not been approved. In order to approve the application for RWD to serve the EPCAL property, RWD must demonstrate that it has sufficient capacity within the system to operate its entire service area using standard industry calculations and must demonstrate that SCWA has no objection to RWD serving this area. The Department acknowledges the improvements made and studies conducted by RWD in the past few years, and the Department has been working with the new RWD superintendent to properly demonstrate the District's capacity and show future improvements that will be made to the system to add additional capacity. The SEQR Consistency Analysis must

reflect these requirements and must provide a detailed discussion of the steps taken to date and the timetable for future steps that will be necessary to provide the proposed development with a fully permitted legal water supply.

While we wanted to provide you with as much feedback as possible as quickly as possible, we suggest that you provide four copies of the revised Exhibit Q drawn to scale for our review as well as the Index of Exhibits prior to submitting revisions of the SEQR Consistency Analysis and the revised CHPP. Once we have reviewed the revised Exhibit Q and Index of Exhibits, we will provide further comments on the necessary revisions of the SEQR Consistency Analysis and revised CHPP.

Sincerely,

A handwritten signature in black ink, appearing to read "Sherri Aicher". The signature is fluid and cursive, with the first name "Sherri" being more prominent than the last name "Aicher".

Sherri Aicher
Deputy Permit Administrator

cc: Yvette Aguiar, Supervisor, Town of Riverhead